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WatchDog

Guarding the Business of Print

February 2017

Headline Summary

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Post OSHA Form 300A

It's not too late to post OSHA Form 300A.

OSHA requires that employers post from February 1 to April 30, 2017 a summary of the job- related injuries and illnesses that occurred last year. Employers are only required to post the Summary (OSHA Form 300A), not the OSHA 300 Log.

Those employers with 10 or fewer employees are normally exempt from federal OSHA injury and illness recordkeeping and posting requirements.

The summary must list the total numbers of job-related injuries and illnesses that occurred in 2016 and were logged on the OSHA 300 form. Employment information about annual average number of employees and total hours worked during the calendar year is also required.

Companies with no recordable injuries or illnesses in 2016 must post the form with zeros on the total line. All establishment summaries must be certified by a company executive.

You can download the forms from at *pic-gov.org* under the Safety section at Form 300.

State Sales Tax Rate Drops

We have received calls on the state sales and use tax rate. On January 1, 2017, the rate decreased one quarter of one percent (0.25%) from 7.50 percent to 7.25 percent.

The decrease in the statewide rate is effective for all cities and counties in California; however, actual sales and use tax rates will still be higher than the statewide rate in many areas in California due to the addition of district taxes.

The California State Board of Equalization (BOE) webpage *www.boe.ca.gov/pdf/boe95.pdf* provides the tax rate by county and city for incorporated and unincorporated and guidance on how the tax rate decrease affects partial exemptions, fixed-price contracts, returned merchandise, fuel rates, and filing returns.

Private Pension Update

Contrary to what you may have heard, California employers will not be subject to the Secure Choice Retirement Savings Investment Program (Secure Choice) in 2017. According to Secure Choice officials, the earliest any employers could be subject to the law is 2019. Consequently, businesses are not obligated to enroll their employees into the program this year and should not feel compelled to make any changes related to their offering of retirement benefits to comply with the law.

Even after the program opens, it will be phased-in over a three-year period, subject to the following schedule:

- More than 100 employees – within 12 months after the program is open for enrollment;
- More than 50 employees – within 24 months after the program is open for enrollment;
- More than 5 employees – within 36 months after Secure Choice is open for enrollment.

Because this is not an employer-sponsored retirement plan, the Secure Choice Board must demonstrate that it has clearly defined the role and responsibilities of employers, so not to subject them to ERISA liability. Additionally, it must develop an operational model that limits the amount of direction and interaction employers will be required to provide employees concerning the program.

New I-9 Form

Beginning Jan. 22, 2017, employers must use the 11/14/2016 N version of Form I-9 *Employment Eligibility Verification*, to verify the identity and work eligibility of every new employee hired after Jan. 22, 2017, or for the re-verification of expiring employment authorization of current employees (if applicable).

This date is found on the lower left hand corner of the form. Prior versions of the form will no longer be valid for use. Employers who fail to use Form I-9 (11/14/2016 N) on or after Jan. 22, 2017 may be subject to all applicable penalties under section 274A of the Immigration and Nationality Act, 8 U.S.C. 1324a, as enforced by U.S. Immigration and Customs Enforcement (ICE).

The list of acceptable documents can be found on the last page of the form. Employers must retain Form I-9 for a designated period and make it available for inspection by authorized government officers.

For more information visit I-9 Central at *www.uscis.gov/i-9-central/complete-and-correct-form-i-9*.

On-Duty Rest Period

The California Supreme Court recently ruled that on-call rest periods are not permissible. The decision will require many California employers to re-examine their rest-break policies and practices.

The Court concluded that, "state law prohibits on-duty and on-call rest periods. During required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time." The 10-minute rest break must be uninterrupted. "The rest period, in short, must be a period of rest."

Thus an employer cannot meet its rest-period obligations by requiring employees to remain on-call. The Court noted, however, that its ruling does not prevent employers from being able to reasonably reschedule a rest period when the need arises — although such circumstances should be "the exception rather than the rule."

2017 Labor Law Posters

All California businesses must display up-to-date labor and safety notices where all employees can see them to be in compliance with federal and state laws. The 2016 all-in-one posters do not meet the federal and state 2017 requirements.

There are pending revisions in a couple of the notices so the posters will not be available for shipment until the second week of January.

Many companies have not updated their Industrial Welfare Commission Wage Order since 2013. If you haven't, your wage order will no longer be current in 2017. However, new Wage Orders have yet to be released. We will alert members when they are released and make them available for purchase.

You can pre-order posters from PIASC at a special rate for members. For example, the cost for the 2017 all-in-one poster is $24.50, which includes postage and sales tax.

To order your 2017 posters, contact Emily Holguin at (323) 728-9500, ext. 262, or email at *emily@piasc.org*.

Unemployment Insurance Tax

California manufacturers will experience another increase in their federal unemployment taxes (FUTA) in January 2017, according to the Employment Development Department (EDD). EDD states that employers will pay a total of $126 more per employee in January 2017 for wages paid in 2016.

California began borrowing money from the federal government in 2009 to cover unemployment insurance (UI) benefit payments during the Great Recession. Because that federal loan remains unpaid, the tax credit usually enjoyed by California employers has continued to rollback, causing UI taxes to increase since 2011.

The revenue generated by the increase is applied to repay the loan, which is projected to be paid in full (absent another deep recession) by the end of 2018. At that time, the credit will reset and manufacturers could see a sizable reduction in their UI tax payments beginning in 2019 for wages paid in 2018.

Workers' Comp Rates

Even though workers' compensation rates dropped in 2016, California continues to be the most expensive state for workers' compensation insurance rates at an average $3.24 per $100 in payroll.

While rates are trending downward according to the *Oregon Workers' Compensation Premium Rate Ranking Summary*, California's decline is not occurring deep enough to level the playing field, despite the reforms in 2012. The United States average is 1.78 per $100 of payroll.

Here's a look at the premiums by state with California's trend vs. the national average.

2017 versus National Average	2016 versus National Average
1 1 California 3.24 176%	January 1, 2016 188%
2 3 New Jersey 2.92 158%	January 1, 2016 152%
3 4 New York 2.83 154%	October 1, 2015 148%
5 2 Connecticut 2.74 149%	January 1, 2016 155%
5 5 Alaska 2.74 149%	January 1, 2016 145%